



Issue: **Grant Funding Agreement with the Community Foundation of the Ozarks**

Date: December 23, 2021

Submitted By: Jimmy Liles, City Administrator

Background

During the last Council meeting, Council voted to approve a budget amendment for \$40,000 of ARPA funds to be allocated to non-profits as allowed by the U.S. Department of Treasury's interim final rule. The Nixa Community Foundation (NCF) has agreed to administer a grant process to help distribute the funds to other non-profits. In exchange, NCF will receive \$10,000 of the funds for administering the process and the remaining \$30,000 will be distributed to other non-profits.

Analysis

To ensure proper distribution of funds, Nick has prepared the attached grant funding agreement between the Community Foundation of the Ozarks and the City of Nixa. The agreement outlines the grant distribution requirements, as outlined by the U.S. Department of Treasury, and would allow NCF to distribute the funds as an affiliate of the Community Foundation of the Ozarks.

Recommendation

Staff is recommending Council approve the resolution allowing us to enter into the grant funding agreement with the Community Foundation of the Ozarks.

RESOLUTION NO. 2021-129

**A RESOLUTION OF THE COUNCIL OF THE CITY OF NIXA AUTHORIZING
THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH THE
COMMUNITY FOUNDATION OF THE OZARKS FOR THE ADMINISTRATION
OF A GRANT FUNDING PROGRAM UTILIZING A PORTION OF THE CITY'S
AMERICAN RESCUE PLAN ACT FUNDS.**

WHEREAS City Council, by passage of Ordinance No. 2236, appropriated \$40,000 from the City's American Rescue Plan Act funding to be provided to local nonprofits to help address the impacts of the COVID-19 pandemic; and

WHEREAS City Council desires to contract with the Community Foundation of the Ozarks to administer a grant program on behalf of the City, whereby a portion of the appropriated \$40,000 is provided to nonprofits to mitigate the effects of COVID-19.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NIXA, AS FOLLOWS, THAT:

SECTION 1: City Council hereby authorizes the City Administrator to execute on behalf of the City the "Grant Funding Agreement" which shall be in substantial conformance with the documents attached hereto and incorporated herein by this reference as "Resolution Exhibit A." The City Administrator is further authorized and empowered to do all things necessary or convenient to carry out the terms and intent of this Resolution.

SECTION 2: This Resolution shall be in full force and effect from and after its final passage by the City Council and after its approval by the Mayor, subject to the provisions of section 3.11(g) of the City Charter.

ADOPTED BY THE CITY COUNCIL THIS 27TH DAY OF DECEMBER 2021.

ATTEST:

CITY CLERK

PRESIDING OFFICER

APPROVED BY THE MAYOR THIS _____ DAY OF _____ 2021.

ATTEST:

CITY CLERK

MAYOR

APPROVED AS TO FORM:

CITY ATTORNEY

GRANT FUNDING AGREEMENT

THIS GRANT FUNDING AGREEMENT (hereinafter “Agreement”) is entered into by and between the City of Nixa, Missouri, a constitutional charter city of the State of Missouri (hereinafter “City”), and the Community Foundation of the Ozarks, a Missouri nonprofit organized under the laws of the State of Missouri (hereinafter “Contractor”).

WHEREAS the City has appropriated \$40,000.00 in American Rescue Plan Act (“ARPA”) funds to support nonprofits operating within the community; and

WHEREAS the City desires to contract with the Contractor for the provision of services related to administering a grant program whereby a portion of the appropriated \$40,000.00 is provided to nonprofits to mitigate the effects of COVID-19; and

WHEREAS the City and Contractor desire to formalize their agreement as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. TERM. This Agreement shall be effective from the day of its final execution by both parties until December 31, 2022, subject to any amendments made by mutual agreement of the parties. If there are any remaining Grant Funds held by Contractor after December 31, 2022, those funds shall be returned to the City.

2. SCOPE OF SERVICES. The City agrees to engage Contractor to perform and undertake the following services:

Contractor shall, on behalf of City, administer a grant program in which funding shall be provided to local nonprofits so they may address negative impacts of the COVID-19 pandemic on the residents of the City of Nixa, Missouri. City shall provide \$30,000.00 of the City’s ARPA funds (herein “Grant Funds”) as funding for said program. Contractor shall distribute the Grant Funds to nonprofits which operate within the City of Nixa, Missouri, and in which the use of any awarded grant funding shall be primarily utilized to benefit or serve the residents of the City of Nixa, Missouri. Contractor shall have the sole responsibility of issuing grants using the Grant Funding and shall ensure that the Grant Funds are awarded in strict compliance with all applicable federal requirements, including the US Treasury’s Interim Final Rule, published on or about May 17, 2021, in addition to any amendments to said Rule. (hereinafter “Services”).

The City authorizes Contractor, and Contractor agrees to proceed with, providing said Services. The City may add to the Services. Contractor shall undertake such changed activities only upon the written direction of the City. All such changes shall be in written form and shall be accepted and countersigned by the Contractor.

3. CONSIDERATION FOR SERVICES. The City agrees to provide to Contractor \$10,000 of additional City ARPA funds (herein “Administrative Funds”) as consideration for the Contractor’s administration of the grant program contemplated herein and for Contractor’s satisfactory performance of this Agreement.

4. PERSONNEL. Contractor shall secure such personnel as are necessary to carry out the terms of this Agreement. All Services shall be performed by Contractor or under its direct supervision. All

personnel engaged in providing the Services shall be fully qualified and authorized under all applicable federal, state, and local law to perform such Services. Contractor shall perform all the Services under this Agreement through staff under the direction of Contractor's designated representative, who shall be responsible for the management, scheduling, planning and coordination of the performance of this Agreement, for communications between Contractor and the City, and for the overall fulfillment of all obligations of Contractor under this Agreement. For purposed of this Agreement, Contractor's designated representative is _____.

5. CITY'S REPRESENTATIVE. Unless specifically provided to the contrary herein, approvals of City may be given by the City Administrator, or their authorized designee, without the need of any further action of the City Council of City. The City Administrator, or their authorized designee, is the City's authorized representative for purposes of carrying out the terms of this Agreement. Amendments or modifications to the terms of this Agreement shall be approved by the City Council of City.

6. FURNISHING OF INFORMATION. All information, data, and reports as are existing, available, and reasonably necessary for the carrying out of the Services shall be provided to Contractor without charge. The City shall reasonably cooperate with Contractor in connection with Contractor's performance of this Agreement.

7. REPORTING AND RIGHT TO AUDIT. Contractor shall report to the City's Representative at least quarterly on the progress of the Services. Contractor shall keep accurate and sufficient reports and records detailing the administration of the Services contemplated herein. The City may examine, at its own expense, such reports and other records at Contractor's office, and Contractor agrees that it will produce such records whenever requested by the City. Any expense incurred by Contractor to prepare or make available such records shall be borne by Contractor.

8. NONDISCRIMINATION. Contractor agrees that, in the performance of this Agreement, that Contractor shall not discriminate on the grounds of or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include similar provisions in all subcontracts entered into to perform any part of this Agreement.

9. INDEPENDENT CONTRACTOR. Contractor is an independent contractor with respect to its performance of this Agreement. Nothing contained herein shall constitute or designate that Contractor or any of its agents or employees are agents or employees of the City. Contractor and its agents, employees, and subcontractors shall not be entitled to any of the benefits established for employees of the City nor shall they be covered by the Workers' Compensation Program for the City.

10. INDEMNIFICATION AND LIABILITY. The parties mutually agree to the following:

a. In no event shall the City be liable to Contractor for special, indirect, or consequential damages, whether or not caused by or resulting from City's negligence, arising out of or in any way connected with a breach of this Agreement. No claim or claims of any kind, either separately or in the aggregate, by Contractor against the City, and in any way arising out of or in any way connected with this Agreement, whether based on negligence or breach of contract.

b. Contractor shall defend, indemnify, and hold the City harmless from and against any and all claims, losses, and causes of action arising out of any claims or causes of action, including but not limited to personal injuries, death, or damage to property which are incurred by Contractor, or any third party arising out of or in any way connected with this Agreement.

c. Contractor assumes full responsibility for relations with subcontractors, and shall defend, indemnify and save harmless the City from and against, any and all liability, suits, claims, damages, costs (including attorneys' fees), losses, outlays, and expenses in any manner caused by, arising out of or connected with this Agreement, notwithstanding any possible negligence (whether sole, concurrent or otherwise) on the part of the City, its agents or employees.

11. ATTORNEY FEES. In the event of any litigation arising from breach of this Agreement, the City shall be entitled to recover from Contractor all reasonable costs incurred for such litigation, including staff time, court costs, attorney fees, and all other related expenses incurred in such litigation. The obligations of this Paragraph shall survive the termination of this Agreement.

12. JURISDICTION AND VENUE. The parties mutually agree that jurisdiction and venue for the purposes of any action resulting from this Agreement by the parties shall be in Christian County Missouri.

13. NOTICES. All notices required or permitted under this Agreement shall be in writing and provided to the following addresses via US regular mail:

a. To the City at:

Jimmy Liles
P.O. Box 395
Nixa, MO. 65714

b. To Contractor at:

14. AFFIDAVIT FOR CONTRACTS OVER \$5,000. If this Agreement is subject or becomes subject to the provisions of sections 285.525 through 285.550 RSMo., then Contractor shall provide an acceptable notarized affidavit stating that Contractor is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with this Agreement, and that Contractor does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Contractor must provide documentation evidencing current enrollment in a federal work authorization program. Contractor expressly agrees that it is Contractor's obligation to ensure its compliance with this paragraph.

15. TERMINATION.

a. This Agreement may be terminated by the City, without cause, upon 14 days written notice to Contractor.

b. This Agreement may be terminated by the City, for breach by Contractor of any of the terms of this Agreement, upon 24-hour written notice.

c. In the event of termination, as described in this paragraph, Contractor shall return to the City any remaining Grant Funds which have not been awarded to qualified nonprofits and a pro-rated amount of the Administration Fee. This pro-rated amount shall be based on the time the termination notice is provided to the other party and the remaining term of this Agreement. The City shall calculate the pro-rated refund amount and provide written notice of this amount to Contractor. Contractor shall thereby refund such calculated

amount within 14-days of the date of City's notice. The obligations of this Paragraph shall survive the termination of this Agreement.

16. GOVERNING LAW. This Agreement shall be governed in all respects by the laws of the State of Missouri.

17. ENTIRE AGREEMENT. This Agreement, including any attachments or exhibits referenced herein, shall constitute the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto and signed by both parties. In the event that the terms of this agreement conflict with the terms of any of the attachments or exhibits, then the terms of this agreement shall control over the terms contained in the attachments or exhibits.

IN WITNESS WHEREOF, the parties have set their hands on the day and year stated herein.

CITY OF NIXA

CONTRACTOR

Jimmy Liles, City Administrator

Authorized signatory

Date:

Printed name

Date:

ATTEST

ATTEST

Cindy Robbins, City Clerk

Signature

Date:

Printed name

APPROVED AS TO FORM

Title

Nick Woodman, City Attorney

Date: _____